

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 289

Short Title: Validate Conveyances.

(Public)

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Sponsors: Representative Rhyne.

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Referred to: Judiciary I.

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March 21, 1991

A BILL TO BE ENTITLED

AN ACT TO VALIDATE CERTAIN CONVEYANCES WHERE SEALS WERE  
OMITTED OR NOTARY WAS NOT QUALIFIED, CERTAIN NOTICES TO  
CREDITORS OF DECEDENTS WHERE THE DEADLINE FOR SUBMITTING  
CLAIMS WAS OMITTED, AND CERTAIN FORECLOSURE SALES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-20.1 reads as rewritten:

**"§ 45-20.1. Validation of trustees' deeds where seals omitted.**

All deeds executed prior to ~~April 1, 1989~~, January 1, 1991, by any trustee or substitute trustee in the exercise of the power of sale vested in him under any deed, deed of trust, mortgage, will, or other instrument in which the trustee or substitute trustee has omitted to affix his seal after his signature are validated."

Sec. 2. G.S. 47-51 reads as rewritten:

**"§ 47-51. Official deeds omitting seals.**

All deeds executed prior to ~~April 1, 1989~~, January 1, 1991, by any sheriff, commissioner, receiver, executor, executrix, administrator, administratrix, or other officer authorized to execute a deed by virtue of his office or appointment, in which the officer has omitted to affix his seal after his signature, shall not be invalid on account of the omission of such seal."

Sec. 3. G.S. 47-53 reads as rewritten:

**"§ 47-53. Probates omitting official seals, etc.**

In all cases where the acknowledgment, private examination, or other proof of the execution of any deed, mortgage, or other instrument authorized or required to be registered has been taken or had by or before any commissioner of affidavits and deeds

1 of this State, or clerk or deputy clerk of a court of record, or notary public of this or any  
2 other state, territory, or district, and such deed, mortgage, or other instrument has  
3 heretofore been recorded in any county in this State, but such commissioner, clerk,  
4 deputy clerk, or notary public has omitted to attach his or her official or notarial seal  
5 thereto, or if omitted, to insert his or her name in the body of the certificate, or if  
6 omitted, to sign his or her name to such certificate, if the name of such officer appears  
7 in the body of said certificate or is signed thereto, or it does not appear of record that  
8 such seal was attached to the original deed, mortgage, or other instrument, or such  
9 commissioner, clerk, deputy clerk, or notary public has certified the same as under his  
10 or her 'official seal,' or 'notarial seal,' or words of similar import, and no such seal  
11 appears of record or where the officer uses 'notarial' in his or her certificate and  
12 signature shows that 'C.S.C.,' or 'clerk of superior court,' or similar exchange of  
13 capacity, and the word 'seal' follows the signature, then all such acknowledgments,  
14 private examinations or other proofs of such deeds, mortgages, or other instruments, and  
15 the registration thereof, are hereby made in all respects valid and binding. The  
16 provisions of this section apply to acknowledgments, private examinations, or proofs  
17 taken prior to ~~April 1, 1989~~ January 1, 1991: Provided, this section does not apply to  
18 pending litigation."

19 Sec. 4. G.S. 47-53.1 reads as rewritten:

20 **"§ 47-53.1. Acknowledgment omitting seal of notary public.**

21 Where any person has taken an acknowledgment as a notary public and has failed to  
22 affix his seal and such acknowledgment has been otherwise duly probated and recorded  
23 then such acknowledgment is hereby declared to be sufficient and valid: Provided this  
24 shall apply only to those deeds and other instruments acknowledged prior to ~~April 1,~~  
25 ~~1989~~ January 1, 1991."

26 Sec. 5. G.S. 47-71.1 reads as rewritten:

27 **"§ 47-71.1. Corporate seal omitted prior to ~~April 1, 1989~~ January 1, 1991.**

28 Any corporate deed, or conveyance of land in this State, made prior to ~~April 1, 1989~~,  
29 January 1, 1991, which is defective only because the corporate seal is omitted therefrom  
30 is hereby declared to be a good and valid conveyance by such corporation for all  
31 purposes and shall be sufficient to pass title to the property therein conveyed as fully as  
32 if the said conveyance were executed according to the provisions and forms of law in  
33 force in this State at the date of the execution of such conveyance."

34 Sec. 6. G.S. 47-108.5 reads as rewritten:

35 **"§ 47-108.5. Validation of certain deeds executed in other states where seal omitted.**

36 All deeds to lands in North Carolina, executed prior to ~~April 1, 1989~~ January 1,  
37 1991, without seal attached to the maker's name, which deeds were acknowledged in  
38 another state, the laws of which do not require a seal for the validity of a conveyance of  
39 real property located in that state, and which deeds have been duly recorded in this  
40 State, shall be as valid to all intents and purposes as if the same had been executed  
41 under seal."

42 Sec. 7. G.S. 47-108.11 reads as rewritten:

43 **"§ 47-108.11. Validation of recorded instruments where seals have been omitted.**

1 In all cases of any deed, deed of trust, mortgage, lien or other instrument authorized  
2 or required to be registered in the office of the register of deeds of any county in this  
3 State where it appears of record or it appears that from said instrument, as recorded in  
4 the office of the register of deeds of any county in the State, there has been omitted from  
5 said recorded or registered instrument the word 'seal,' 'notarial seal' and that any of said  
6 recorded or registered instruments shows or recites that the grantor or grantors 'have  
7 hereunto fixed or set their hands and seals' and the signature of the grantor or grantors  
8 appears without a seal thereafter or on the recorded or registered instrument or in all  
9 cases where it appears there is an attesting clause which recites 'signed, sealed and  
10 delivered in the presence of,' and the signature of the grantor or grantors appears on the  
11 recorded or registered instrument without any seal appearing thereafter or of record,  
12 then all such deeds, mortgages, deeds of trust, liens or other instruments, and the  
13 registration of same in the office of the register of deeds, are hereby declared to be in all  
14 respects valid and binding and are hereby made in all respects valid and binding to the  
15 same extent as if the word 'seal' or 'notarial seal' had not been omitted, and the  
16 registration and recording of such instruments in the office of the register of deeds in  
17 any county in this State are hereby declared to be valid, proper, legal and binding  
18 registrations.

19 This section shall not apply in any respect to any instrument recorded or registered  
20 subsequent to ~~April 1, 1989,~~ January 1, 1991, or to pending litigation or to any such  
21 instruments now directly or indirectly involved in pending litigation."

22 Sec. 8. G.S. 28A-14-1.1(b) reads as rewritten:

23 "(b) This section applies to all notices published and posted between October 1,  
24 1975, and ~~March 16, 1989,~~ January 1, 1991, except that it does not affect any pending  
25 litigation or any litigation instituted within 90 days of ~~March 16, 1989,~~ January 1, 1991."

26 Sec. 9. G.S. 10-12(d) reads as rewritten:

27 "(d) This section shall apply to notarial acts prior to ~~April 1, 1989,~~ January 1,  
28 1991."

29 Sec. 10. G.S. 45-21.47 reads as rewritten:

30 "**§ 45-21.47. Validation of foreclosure sales when trustee is officer of owner of debt.**

31 All sales of real property made prior to ~~June 1, 1989,~~ January 1, 1991, under a power  
32 of sale contained in a mortgage or deed of trust for which the trustee was an officer,  
33 director, attorney, agent, or employee of the owner of all or part of the debt secured by  
34 the mortgage or deed of trust are validated and have the same effect as if the trustee had  
35 not been an officer, director, attorney, agent, or employee of the owner of the debt  
36 unless an action to set aside the foreclosure is commenced within one year after ~~June 1,~~  
37 1989, January 1, 1991."

38 Sec. 11. This act is effective upon ratification.